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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,094

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Anthony Donald Songest

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EXAMINER

YIP, WINNIE S

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,094	Applicant(s) SONGEST, ANTHONY DONALD	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/11/06, 4/14/08, 1/9/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action for application Serial No. 10/597,094 filed July 11, 2006 which is filed under 35 U.S.C. 371 of international application No. PCT /IB05/50128 filed on January 12, 2005.

Drawings

1. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Fig. 7, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 5, the phrases "adapted to be releasably connectable" (claim 1, line 3) and "adapted to be hingedly connected" (claim 5, line 2) fail to positively recite a cooperative relationship between the hoop member and the frame. And, the phrase "such that" renders the claim indefinite because it is unclear whether the limitations following the phrase (i.e., "at least two hoop members substantially extend diagonally across said frame") are part of the claimed invention. See MPEP § 2173.05(d). Notice, all structural limitation including the cooperative relationship between the structural elements of the claimed invention must be positively claimed. For example, it should read "being releasably/hingedly connected".

Accordingly, in claim 25, the phrase "including a centrally extending loop member, two diagonally extending hoop members ..." must be recited consistently with the limitation of claim 1.

Accordingly, in claim 1, the limitation of "two diagonally extending hoop member" **has been treated as a function only.**

In claim 6, the limitation of "the end hoop members" lacks a proper antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 4-6, 9, and 11-12, as better understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Vevin et al. (US Patent No. 5,740,826).

In claim 1: Vevin et al. teach a portable vehicle cover including: a base frame (12); a plurality of transversely extending hoop members (14.1-14.6), each hoop member having two ends being capably releasably connected with said frame such that at least two of said hoop members (i.e. hoops 14.3, 14.4) is capable to be substantially extended diagonally across said frame in a cruciform orientation; and a flexible cover (18) engagable with said hoop members to form a weather shield for a vehicle.

In regard to claims 2, 4-6, 9, 11-12: Nevin et al. further teach the hoop members (141-146) are substantially arcuate hoops when connected to the frame; each of the hoop members is formed from a shingle continuous piece; the hoop members having ends being hingedly connected to a pair of pivot arms (56, 58) on opposite sides of the base frame (60, 64); the base frame (12) including two transversely spaced longitudinally extending elongated frame members (20) each including one or more telescopingly connected extensions (26, 30) for selectively extending a length of the base frame, and two transversely extending frame members (22) for spacing apart the elongate frame members.

7. Claims 1-2, 4, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (US Patent No. 6,892,742).

Wang teaches a portable vehicle cover capably used for covering a vehicle, including: a base frame (14b); a plurality of transversely extending hoop members (30, 31), each hoop

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member having two ends being capably releasably connected with said frame, wherein at least two of said hoop members (30, 31) are substantially extended diagonally across said frame in a cruciform orientation; and a flexible cover (10a) engagable with said hoop members to form a weather shield for a vehicle, wherein the hoop members (30, 31) are substantially resilient to form arcuate hoops when connected to the base frame, each hoop members is formed from single continuous piece, the base frame (14b) including two transversely spaced longitudinally extending elongated frame members and two transversely connected extensions for spacing apart the elongate frame members.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-17, 23-25, 29-30, as better understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gamache (US Patent No.4,886,083) in view of Phillips (US Patent No. 6,289,839).

In claims 1 and 23-25: Gamache teaches a portable vehicle cover (20) including: a base frame (36); a plurality of transversely extending hoop members (46, 48, 50, 52, 54, 56, 58), each hoop member and ends being hingedly connected with said frame, each of the hoop members substantially extend transversely across the frame in a cruciform orientation such that the hoop members being moved in an opened position (see fig. 3) and a closed position (see Fig. 1), and a

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flexible cover (32) engagable with said hoop members to form a weather shield for a vehicle. wherein the hoop members including a centrally extending hoop member (52), two pivotally connected central hoop members (50, 54), and at least two pivotally connected end hoop members (46, 48; 56, 58) on each side of the central hoop member. Although, Gamache does not define the cover having at least two of the diagonally extending hoop members substantially extend diagonally across said frame in a cruciform orientation as claimed, Philips teaches a portable cover comprising: a plurality of transversely extending hoop members (16, 55) having ends being connected to a base frame (30), the hoop members including at least one end hoop member (55) and at least two diagonally extending hoop members (36) substantially extending diagonally across each other and across the base frame in a cruciform orientation to provide dome shaped support therebetween, each the diagonally extending hoop members formed by two joint sections being connected by a hoop clamp (42) which is a center hub (42). It would have been obvious to one ordinary skill in the art at time the invention was made to modify the portable cover of Gamache having at least two central hoop members being mounted substantially extending diagonally across each other and across the base frame in a cruciform orientation and being jointed by a central hub as taught by Phillips for providing a portable cover having a higher inner space area with a stronger center support formed thereon.

In regard to claims 2-17, and 29-30: Gamache further teaches the hoop members are substantially arcuate hoops when connected to the frame; each of the hoop members (i.e., 5) may be formed by two or more releasably connectable pieces (50, 100) by slip joints (102), the hoop member may also be formed from a single continuous piece from a flexible rod or tube may be used instead of several pieces (see col. 4, lines 28-35); the hoop members having ends being

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hingedly connected to a pair of pivot arms (80) on opposite sides of the base frame (36); the base frame (36) including two transversely spaced longitudinally extending elongated frame members (40 or 82), each elongated frame member including two hingedly connected elongate portions (44, 60), and each elongate frame member including one or more telescopingly connected extensions (28) for selectively extending a length of the base frame, the base frame including two transversely extending, flexible and selectively extendible tie/strip members (106) for adjustably spacing apart the elongated frame members (40), the tie members are flexible strap (see col. 4, lines 42-48), four tyre pads (72) pivotally connected to the base frame for retaining the vehicle cover with respect to the vehicle, and the flexible cover (32) having ends being slidably engaging with the end hoop members (46, 60) and secured to the base frame by a plurality of flexible strap members (88), and the hoop members being made of resilient material such as fiberglass, and the support frame members are made of tubular aluminum (see col. 4, lines 35-37).

10. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gamache '083 in view of Phillips '834 as applied to claims 1 and 9 above, and further in view of Masuda et al. (US Patent No. 4,585,020).

Although Gamache as combined by Phillips does not teach the base frame including a plurality of hoop engaging sockets as claimed, as known in the art, Masuda et al. teaches a cover comprising: a base frame including two transversely spaced longitudinally extending elongate frame members (38 or 56), the elongate frame member each including a plurality of hoop engaging sockets (42a-42b) hingedly connected to the elongate frame member, and the sockets are inclined at an angle with respect to a vertical plane for removably coupling each end of hoop

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members (46) in an angle to the elongated frame member. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the cover of Gamache combined with Phillips having the base frame formed with hoop engaging sockets being inclined at an angle as taught by Masuda et al. for quickly and removably coupling the ends of the hoop members to the base frame with an arrangement with suitable angle with respect to the base frame for expanding the cover to provide a suitable inner space sufficiently covering a vehicle place therein.

Allowable Subject Matter

11. Claims 26-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Citations

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Love '549 teaches a portable vehicle cover having extensions with a suction cap for engaging the vehicle and supporting the cover against the vehicle as similar to the claimed invention. Stokes '417 and Mitchell et al. '865 teach various portable vehicle covers having hoop members hingedly connected a base frame as similar to the claimed invention. Scott '942 and Egnew et al. '495 teach various portable covers each having a base frame with a plurality of hoop engaging sockets to releasably connect the hoop members respectively as the claimed invention. Griffin '919, Robie '940, Ferguson '856, and Carmichael '900 teach various portable cover having adjustable straps for mounting end hoop members to a base frame respectively as

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similar to the claimed invention. Oswald et al. '827, Funk et al. '004, Ju '573 teach various portable cover having at least two diagonally extension hoop member extending diagonally across a base frame as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Winnie Yip/
Primary Examiner,
Art Unit 3636

wy
February 13, 2009